

## **REMARKS**

### **Formal Matters**

Claims 9-18 and 26-29 are pending after entry of the amendments set forth herein.

Claims 9-18 and 26-29 were examined. Claims 9-18 and 26-29 were rejected. No claims were allowed.

Claims 9 and 16 are amended. The amendments to the claims were made solely in the interest of expediting prosecution, and are not to be construed as an acquiescence to any objection or rejection of any claim. Support for the amendments to the claims are found in the claims as originally filed, particularly claim 9, and throughout the specification. No new matter is added by these amendments.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

### **Priority**

The specification has been objected to because there is no specific reference to prior applications in the first sentence of the specification.

To address this objection, the Applicants have amended the specification to provide a first sentence making specific reference to prior applications.

The Applicants respectfully submit that this objection has been fully addressed, and withdrawal of this objection is respectfully requested.

### **Rejection under 35 U.S.C. §112, ¶2**

Claim 9 and claims dependent therefrom are rejected under 35 U.S.C. §112, ¶2 for reciting "said cell" in element (b), when there appears to be insufficient antecedent support for "said cell".

Claim 9 has been amended to recite "said hematopoietic cell".

The Applicants respectfully submit that there is sufficient antecedent support for "said hematopoietic cell" and, accordingly, this rejection may be withdrawn.

Claim 16-18 are rejected under 35 U.S.C. §112, ¶2 for reciting the term "Toso protein" which assertedly causes the metes and bounds of the claim to be indeterminate.

Without wishing to acquiesce to the correctness of the rejection, claim 16 has been amended to recite "wherein said Toso protein is encoded by a nucleic acid that hybridizes under high stringency

conditions to the nucleic acid sequence depicted in Figure 1 (SEQ ID NO:1) or its complement". Claims 17 and 18, because they depend on claim 16, also import this limitation.

The Applicants respectfully submit that the metes and bounds of the claims are clear, and, accordingly, this rejection may be withdrawn.

### **Rejection under 35 U.S.C. §102(e)**

The Office Action states that claims 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu (USPN 6,114,115). This appears to be an inadvertent error, since USPN 6,114,115 is not by Wu. Applicants note that Wu (USPN 6,114,515) was cited in the Information Disclosure Statement filed on June 15, 2001 and mentioned earlier in the Office Action. As such, to facilitate prosecution, the rejection is traversed as it is or could be applied if Wu (USPN 6,114,515) instead of Wu (USPN 6,114,115) was the basis for this rejection.

Without wishing to acquiesce to the correctness of the rejection, and solely to expedite prosecution, the phrase "modulates apoptosis in said cell" has been added to the body of claim 16.

Wu fails to disclose that PIRGL-1 has any role in cell apoptosis, and, as such, cannot anticipate the subject matter of the instant claims, which relate to a method of modulating apoptosis in a cell.

The Applicants respectfully submit that the foregoing discussion adequately addresses this rejection. Withdrawal of this rejection is respectfully requested.

### **Obviousness-type Double Patenting**

Claims 9-15 and 26-29 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims of US 6,555,314.

Without conceding as to the correctness of the rejection, the Applicants submit herewith a Terminal Disclaimer over US 6,555,314. Applicants respectfully request that this rejection be withdrawn.

**Conclusion**

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number RIGL-002CON.

Respectfully submitted,  
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Enclosures: Terminal Disclaimer over US 6,555,314

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